IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7501 OF 2002

Union of India Petitioner

versus

IInd Additional Principal udge
and others Respondents

Mr.S.R.Rajguru for petitioner.

None for respondents.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 13th January 2006

PC :

1. Heard Shri Rajguru for Union of India. Perused the petition and annexures thereto.

2. The order under challenge is an interim order passed in a pending appeal, by the then Second Additional Principal Judge, City Civil Court, Mumbai. By the order under challenge he directed that respondent no.2 should be placed in possession of property belonging to the Union of India during pendency of her appeal to challenge an order of eviction passed under the Public Premises (Eviction of Unauthorised Occupants)

Act, 1971.

3. The order impugned in this petition was stayed by this Court as early as on 31st December 2002 and the said stay is continuing till date. The order of the appellate authority directs petitioners to place second respondent in possession of the subject property. However, I am informed by Shri Rajguru that second respondent has expired. None appears for respondent no.3 though served.

4. In my view, it is not necessary to decide any wider questions and interest of justice would be served if the order of this Court passed on 31st December 2002 and as modified on 9th April 2003 is directed to be continued during pendency of appeal preferred by the deceased (second respondent).

5. Shri Rajguru informs that an application of the heirs and legal representatives of the deceased second respondent to implead them as appellants, is also pending. It would be open for the appellate authority to consider said application and pass appropriate orders thereon in accordance with law. In the light of the said

order granted by this Court, it is needless to clarify that the order dated 19th December 2002 (Exhibit-A) stands set aside. The learned Judge to proceed with the appeal after the applications made by the heirs and LRs are considered in accordance with law. Keeping contentions of all parties open on that issue as well as on the merits of the controversy, present petition is disposed of.

(S.C.DHARMADHIKARI, J.)